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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,494	07/23/2003	Darrell T. McKenzie	8200.761	7832

7590 03/17/2005

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EXAMINER

DRODGE, JOSEPH W

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,494

Applicant(s)

MCKENZIE, DARRELL T.

Examiner

Joseph W. Drodge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 13, 15-17, 19-23, 25, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 4-12, 14, 18, 24 AND 29-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0703</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claims 15,16,22,23 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of claims 15,16,22 and 23 "said structural plate" lacks antecedent basis, changes in claim dependency would remedy this; in claim 27, is a separate structural plate from the structural plate recited in claim 26 recited?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,2,13,17,19,21,25,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covington patent 5,301,958 (newly cited) in view of Holt patent 5,690,814 of record.

Covington discloses filter housing wall 10, flange 16 or its outer end 18 embedded within the wall by means of mutual crimping of housing wall and flange (see

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figures), and other end 42 of the flange connected to cover plate 14. No materials for housing are disclosed.

The claims differ in requiring the housing to be of a non-metal material. Holt teaches a plastic, transparent [as in claim 19] housing for an oil filter in column 1, lines 38-56. It would have been obvious to one of ordinary skill in the art to have constructed the filter housing of Covington of transparent plastic, as in Holt, because of weight considerations and advantage of providing for visual operator monitoring of the condition of the fluid being filtered.

For claim 2, see compressible seal 44 of Covington.

For claim 17, Covington discloses placing seal in compression at column 5, lines 65-68.

Regarding claim 21, plates and housing components of oil filters are conventionally made of metal materials such as steel.

For claim 25, the flange 16 of Covington has an "L" shape at its end (figure 1).

Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covington in view of Holt as applied to claims 2 and 13, respectively, above, and further in view of Schacht et al patent 4,021,342.

Claim 3 further differs in requiring compression seal to be of same material as housing wall. Such similarity in materials between sealing members and housing is taught by Schacht at column 3, lines 18-21 with column 4, lines 19-22. It would have been obvious to one of ordinary skill in the art to have manufactured housing and seal

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of Covington with the same materials, as taught by Schacht, to simplify manufacture and effect more complete sealing between adjacent parts.

Claim 20 differs in requiring the housing and housing/flange embedding to be effected by an injection molding process, such process taught by Schacht at column 4, lines 29-21. It would also have been obvious to one of ordinary skill in the art to have utilized the injection molding process of Schacht in the manufacture of the oil filter of Covington, to assure accuracy of manufacturing specifications and dimensions.

ALLOWABLE SUBJECT MATTER

Claims 4-12,14-16,18,22-24,27 and 29-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 15,16,22,23 and 27 additionally requiring correction of forementioned 35 USC 112, Paragraph 2 errors.

Claims 4-12,14-16,22,23,27 and 29-33 are all distinguished over the prior art in view of recitation of there being a further structural plate between cover plate and housing. Such apparent redundant support arrangement is not suggested by any of the prior art.

Claims 18 and 24 distinguish in view of recitation of flange second end and cover plate being a double seamed or crimped connection, as opposed to integral, press-fit type connection of the prior art generally between end members.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

March 15, 2005


JOSEPH DRODGE
PRIMARY EXAMINER